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**UNITED STATES DISTRICT COURT,
DISTRICT OF ARIZONA**

CHARLES HERNANDEZ,)	Case No.:
)	
Plaintiff,)	COMPLAINT AND DEMAND FOR
)	JURY TRIAL
v.)	
)	(Unlawful Debt Collection Practices)
ER SOLUTIONS, INC.,)	
)	
Defendant.)	

PLAINTIFF'S COMPLAINT

CHARLES HERNANDEZ (Plaintiff), through his attorneys, KROHN & MOSS, LTD.,
alleges the following against ER SOLUTIONS, INC. (Defendant):

INTRODUCTION

- Count I of Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

- Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
- Defendant conducts business in the state of California, and therefore, personal jurisdiction is established.
- Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

1 5. Declaratory relief is available pursuant to 28 *U.S.C. 2201 and 2202*.

2 **PARTIES**

3 6. Plaintiff is a natural person residing in Prairieville, Louisiana.

4 7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to
5 Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.

6 8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought
7 to collect a consumer debt from Plaintiff.

8 9. Defendant is a collection agency with a business office in Glendale, Arizona.

9 10. Defendant acted through its agents, employees, officers, members, directors, heirs,
10 successors, assigns, principals, trustees, sureties, subrogees, representatives, and
11 insurers.

12 **FACTUAL ALLEGATIONS**

13 11. Defendant constantly and continuously places collection calls to Plaintiff seeking and
14 demanding payment for an alleged debt.

15 12. Defendant places multiple collection calls to Plaintiff daily.

16 13. Defendant calls Plaintiff on his home phone: 225-366-0216.

17 14. Defendant calls Plaintiff from: 877-317-1200.

18 15. Defendant does not provide meaningful disclosure of the caller's identity by hanging up
19 on Plaintiff's answering machine.

20 **COUNT I**
21 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

22 16. Defendant violated the FDCPA based on the following:

23 a. Defendant violated §1692(d) of the FDCPA by engaging in conduct the natural
24 consequence of which is to harass, oppress, and abuse Plaintiff;

25 b. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiff's

1 telephone to ring repeatedly and continuously with the intent to annoy, abuse,
2 and harass Plaintiff;

3 c. Defendant violated §1692d(6) of the FDCPA by placing telephone calls without
4 meaningful disclosure of the caller's identity and;

5 d. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an
6 attempt to collect a debt by not providing meaningful disclosure of the caller's
7 identity by hanging up on Plaintiff's answering machine.

8
9 WHEREFORE, Plaintiff, CHARLES HERNANDEZ, respectfully requests judgment be
10 entered against Defendant, ER SOLUTIONS, INC., for the following:

11 17. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection
12 Practices Act,

13 18. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15*
14 *U.S.C. 1692k*,

15 19. Actual damages,

16 20. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act,
17 *15 U.S.C. 1692k*

18 21. Any other relief that this Honorable Court deems appropriate.

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DEMAND FOR JURY TRIAL

Plaintiff, CHARLES HERNANDEZ, demands a jury trial in this cause of action.

RESPECTFULLY SUBMITTED,

DATED: October 22, 2009

KROHN & MOSS, LTD.

By: /s/ Ryan Lee

Ryan Lee
Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF ARIZONA

Plaintiff, CHARLES HERNANDEZ, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, CHARLES HERNANDEZ, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

DATE: 10-22-09

Charles Hernandez
CHARLES HERNANDEZ